

MONTHLY REPORT FROM THE USAID STAR PLUS PROJECT

SEPTEMBER 2011

Legislative Function and Processes

Government Procurement: Government procurement is an issue that has very serious social, economic and developmental implications for developing countries. A large part of an average developing country's income is made up of the spending of its government on the purchase of goods, payment for all kinds of services, and a variety of projects, from the building of schools and roads to billion-dollar mega-dams and industrial complexes, provincial governments, statutory bodies and state-owned enterprises. It is a major issue for the United States, too. In 2007, U.S. Federal Government procurement totaled \$456 billion. The WTO does have an agreement on government procurement which covers market access. There is a plurilateral agreement, which means WTO members are free to join or not join, but hardly any developing countries, including Vietnam, have joined this agreement due to concerns about the adverse effects of their being members. Hence, government procurement has emerged as a major issue in the Trans Pacific Partnership FTA negotiations. It is very likely that Vietnam will be required to adjust its legal framework and administration of government procurement to support transparent and international standards of competition in government procurement. Vietnam's current Law on Public Procurement will be amended and upgraded in 2012. USAID STAR Plus has been asked to provide assistance in drafting that law.

USAID organized a 9-day study mission on government procurement in Chicago, Washington, D.C, and Maryland from September 10 to 18 with the following objectives:

- Educate the Vietnamese delegation about the national procurement system of other countries to help Vietnam improve the knowledge and promote procurement reform.
- Provide the Vietnamese team an overall picture of U.S. procurement systems which will be beneficial to the progress of TPP negotiation and reform of Vietnam's procurement systems.
- Equip key people of Public Procurement Agency with a practical knowledge of the U.S. Government procurement's legal framework, systems and implementation at the Federal, state and city levels. This knowledge will enable Vietnam to better understand the requirements for government procurement in TPP negotiations and adjust Vietnam's law and system of government procurement accordingly.
- Improve the capacity of the Government of Vietnam to establish a more transparent and effective procurement law and administration of government procurement. This will benefit both Vietnamese and American businesses.

- Provide a forum for the delegation members to share information on the Vietnamese Government Procurement System with relevant U.S. Federal and state agencies and stakeholders.

The Vietnamese delegation was composed of a mix of TPP negotiators (who were already in Chicago at GVN expense) and other officials from Hanoi. They included:

1. Mr. Le Van Tang - Director General of Public Procurement Agency of MPI.
2. Mr. Nguyen Dang Truong - Deputy Director General of Public Procurement Agency of MPI.
3. Ms. Nguyen Van Huong – Deputy Director of the Center for Procurement Support, Public Procurement Agency of MPI.
4. Ms. Nguyen Thi Thuy Hang – Head of Procurement Division, Public Procurement Agency of MPI.
5. Mr. Nguyen Thanh Tu – Deputy Director General, Department of International Law, Ministry of Justice

Upon his return to Hanoi, Mr. Le Van Tang, head of the delegation, said the mission exceeded his expectations. Mr. Trang said that all the meetings were perfect - not too long, not too short, not too many meetings each day, but all the agencies that they met with were exactly what they need. He said the group learned a lot from this mission and they are already thinking about what the next steps should be and what technical assistance may be needed on government procurement and preparation for the drafting of the revised Law on Procurement. The delegation also wants to:

- Translate parts of some US law books on procurement they received during meeting in the U.S.,
- Invite some of the people they met during the trip to come to Vietnam to train their staff.

Mr. Trang added that this trip was immensely helpful to them in understanding U.S. procurement standards, which are very different from those of the World Bank, which they are more familiar with.

Workshop on Treaties Law: On September 6, the Ministry of Foreign Affairs (MOFA), with support from USAID STAR Plus conducted a one-day workshop in Hanoi on implementation of the Law on Conclusion, Accession and Implementation of Treaties enacted in June of 2005. A major purpose of the workshop was to collect recommendations for possible amendment of the Law. STAR had played a key role in assisting the MOFA-led Drafting Team to finalize the Law in 2004 and 2005. (That Drafting Team was led by Vice Minister Le Cong Phung who thereafter became Vietnam's Ambassador to the U.S.)

This was the first time that MOFA had held a workshop on implementation of the Law since it became effective on January 1, 2006. The workshop was chaired by Mme. Le Thi

Tuyet Mai, Deputy Director-General of MOFA's Department of international Law and Treaties (who had worked closely with USAID STAR I in finalizing the Law in 2004-05). There were 42 participants from various ministries and agencies, including the Ministries of Culture, Planning and Investment, and Finance, as well as the Supreme People's Procuracy and representatives from various departments of MOFA.

In her opening statement Mme. Mai pointed out key advances made by the Law including the provisions that treaties prevail over conflicting provisions of domestic law and those providing for direct application of treaty provisions as law. She also summarized the five years of implementation of the Law, noting that it had effectively supported Vietnam in acceding to the WTO and generally had been effectively implemented by relevant agencies. STAR made a presentation focusing on recommendations to clearly enable individuals and organizations to enforce treaty provisions by suing in the courts and to simplify procedures for making treaty provisions directly applicable.

Other issues raised by participants during the discussion included the need for a clearer definition of treaties, clarification of when the State President must submit treaties to the National Assembly for ratification, better publication of treaties, as well as shorter, more flexible procedures for simpler and more routine treaties.

During both her opening and closing remarks Mme. Mai sincerely thanked USAID for its support for MOFA in developing the Law in 2004-04 and its current support of MOFA for the workshop and capacity building activities.

Trade and Investment Enabling Environment

Trade in Dairy Products: On September 15, USAID STAR Plus met with the National Milk Producers Federation (NMPF) and the U.S. Dairy Export Council (USDEC) in Washington to discuss cooperation in responding to the Ministry of Industry and Trade request for assistance in conducting a food safety risk assessment for dairy products. With the implementation of the 2010 Law on Food Safety, the Ministry of Industry and Trade (MOIT) has greater responsibility for food safety of dairy, beverages, cooking oil, and other products under their jurisdiction. U.S. dairy exporters expressed a strong interest in working with USAID STAR Plus to advise MOIT on food safety to ensure that the resulting risk assessment and food safety implementation strategy focuses on high priority risks such as counterfeit infant formula. U.S. exports of dairy products are one of the best hopes for increasing U.S. exports to Vietnam. Because of the strong demand for dried milk powder, Vietnam is now the 7th largest market for U.S. dairy exports.

A second meeting was convened on September 23 in Hanoi with USAID STAR Plus and representatives of USAID/Vietnam. The U.S. dairy industry was represented by Thomas Suber, President of the U.S. Dairy Export Council (USDEC), Matt McKnight, Senior Vice President for Market Access, Industry and Regulatory Affairs of the USDEC and Richard Fritz of the Food and Agriculture Export Alliance (FAEA). Among other things, the discussion covered the U.S. approach to food safety inspection, especially the different roles played by the USDA and the Food and Drug Administration. Both Mr. Suber and Mr. McKnight expressed a strong desire that any work USAID does on the

food safety aspects of daily products should be conducted by persons with an FDA background, not USDA experience. Two recently retired FDA scientists have been identified as potential technical assistance providers and may come to Vietnam in December 2011.

E-government and Civil Service Reform: On September 1, USAID STAR Plus and USAID/Vietnam met with officials from the Office of the Government to discuss future cooperation between USAID STAR Plus and OOG. The OOG requested a study mission to the United States on E-government and public sector reforms to strengthen the capacity of the OOG and inter-agency coordination in policy making and implementation.

Hague Conference: The Hague Conference is a global inter-governmental organization, currently having 72 Members (71 States and the European Union) representing all continents. Its purpose is “to work for the progressive unification of the rules of private international law. As such it has developed and currently services international conventions which respond to global needs in the following areas: (1) International protection of children, family and property relations; (2) International legal co-operation and litigation; and (3) International commercial and finance law. Currently there are 39 Hague Conventions. The most widely ratified Conventions deal with:

- The abolition of legalization (Apostille)
- Service of process
- Taking of evidence abroad
- Access to justice
- International child abduction
- Intercountry adoption
- Conflicts of laws relating to the form of testamentary dispositions
- Maintenance obligations
- Recognition of divorces

Recent Conventions are the Convention on the Law Applicable to Certain Rights in respect of Securities held with an Intermediary (2006), the Convention on Choice of Court Agreements (2005), the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance together with the Protocol on the Law Applicable to Maintenance Obligations (2007)

The MOJ requested USAID STAR Plus to provide advice and assistance in helping Vietnam determine whether to apply for membership. The Ministry requested that the expert to come to a seminar in Hanoi to be held on October 24 to present on (i) International experience on joining the Hague Conference on Private International Law; and (ii) The advantages and disadvantages, benefits and costs/burdens costs to Vietnam that would accrue from joining the Hague Conference. USAID STAR Plus arranged for the Deputy Secretary General of the Hague Conference, Dr. Christophe Bernasconi, to attend the workshop.

Customs Training: Exports of Chinese-made steel from Vietnam, disguised as Vietnamese-made steel, are a major issue with the United States steel industry. The TPP will require greater customs disciplines of the type that are needed to stop anti-circumvention for steel, but these disciplines will apply to all products. In conjunction with the Government Procurement study tour, USAID STAR Plus met with the American Iron and Steel Institute in Washington, D.C. to explore the possibility of securing their participation in a series of seminars on anti-circumvention. Lessons learned from a series of steel seminars would provide important advice to VN customs about reforms that they will be required to undertake under the TPP. The Institute representatives were cordial, but expressed little interest in cooperating with such a program. USAID STAR Plus is exploring alternative ways of providing this much needed training, possibly with a focus on a different product.

Plant Protection Study Tour: USAID STAR Plus participated in a study tour on plant protection issues from September 10 to September 25. The objective of the study tour, which was primarily supported by the Food and Agriculture Export Alliance and USDA, was to work with a team that included representatives of the Office of the Government, the National Assembly and the Ministry of Agriculture and Rural Development to develop a law, and subsequent regulations that will enhance food and feed safety; reduce pesticide and herbicide residues in crops; better monitor and control plant diseases; harmonize Vietnam's plant laws and regulations with their WTO commitments (as well as IPPC); enhance import and export trade; licensing and control of pesticide and herbicide use; enhance labeling; protect the environment and human health against overuse and runoff from production chemicals; and assist Vietnam contribute in international fore on plant and human health (Codex Alimentations). The study tour also helped key government officials with responsibility for drafting the Law on Plant Health learn about the U.S. system and experiences in regulating plant health, especially in the areas of chemical residue level, management and use of plant protection drugs, quarantine of imports. The participants met with U.S. Government officials (Foreign Agricultural Service, Animal Plant Health Inspection Service (APHIS), FSIS and the Environmental Protection Agency), private sector companies and research institutions in Washington, North Carolina and Missouri. The delegation also received detailed briefings on biotechnology, safety of biotech products, compared to conventional products, and how biotech plays an important role in food security, climate change and environmental protection. Visits to a biotech corn farm in Maryland and a biotech soybean farm near St Louis, Missouri were included in the itinerary.

Financial Sector Enabling Environment and Fiscal and Monetary Policy

Economic Round Table: The National Assembly held an economic workshop in HCMC on Friday, September 23 to obtain comments from leading economists on the Government's performance. The National Assembly was anxious to get their assessments prior to the next General Assembly meeting. The paper written by USAID STAR Plus economists Dr. Riedel and Dr. Tra on "The Cost of Disinflation" was included in the materials the Deputies reviewed. USAID STAR Plus economist, Dr. Phan Chi also made a presentation, at the request of the National Assembly on

quantitative macroeconomic forecasting. The workshop called for stronger fiscal measures to address the root cause of high inflation and restructuring the economy.

Early Warning System: USAID STAR Plus provided further comments on the development of the early warning system to the State Bank to assist them in fine tuning the system. USAID STAR Plus shared the experiences of the Central Banks of Moldova and Macedonia with the State Bank of Vietnam. Use of the improved tool will enable policy makers at the SBV to identify macroeconomic risks at an earlier stage and introduce policy measures to mitigate the adverse effects of such developments.

Financial Forecasting: From September 13 to 15 USAID STAR Plus trained approximately 20 officials in Hanoi from the Ministry of Planning and Investment and the Monetary Policy Department of the State Bank of Vietnam on the use of a simplified financial forecasting program (based on International Monetary Fund tools) to enable them to better formulate monetary policy. Dr. Pham Chi, a former IMF economist and instructor from the Wharton School of Business, conducted the training. The policy recommendations arising from this exercise were subsequently adopted by the Central Bank of Vietnam. More intensive training will be conducted in early October for MPI and SBV officials in Vinh Yen and in Hanoi, with the participation of officials from the Ministry of Finance. As a result of this training, officials in all three organizations will be able to produce policy recommendations based on much better financial forecasts.

Fiscal Reform and Transparency: From September 15 to 17, USAID STAR Plus officials attended a workshop on fiscal reform and transparency in Hoi An. The event was supported by the United Nations Development Program and organized by the Finance and Budget Committee of the National Assembly. The workshop reviewed the experiences of transitional economy (China, Korea, Poland and New Zealand) in the light of the current fiscal challenges facing Vietnam. There were over 100 participants, mostly People's Deputies. The attendees agreed that Vietnam needs to improve its fiscal position to stabilize macroeconomic conditions. Participants called for greater transparency and accountability in the budget law as part of the solution to the current fiscal deficit. Next steps: Members of the Committee expressed an interest in learning more about the U.S. approach to preparing the Federal budget, the role of the Congressional Budget Office, how budget hearings are conducted, etc. They also expressed a desire for a study tour to Washington to gain firsthand knowledge of the process.

Rule of Law

Legal Skills and Public Consultation: USAID STAR Plus supported the MOJ in conducting two three-day training courses for 500 officials from 35 provinces (300 in the HCMC on Sept 22-24 and 200 in Buon Me Thuot on Sept. 26-28) from Sept. 22 – 28. The purpose of the training was to familiarize the participants with latest regulations on the role of provincial level legal staff in the development of new laws and with WTO-BTA requirements and U.S. experience in respect of two major topics – namely, (1) publication final laws and regulations in an official journal or on an official website

before becoming effective; and (2) U.S. experience on publication of draft laws and regulations for public comment, as well as other tools, for public consultation. A second purpose was to provide participants with new skills needed to conduct public consultations in the course of developing new laws and regulations. Public consultation is a requirement under the 2004 Local Law on Laws but does not provide the detailed mechanism that the 2008 Law on Laws for the Central Level for posting drafts for a mandatory 60-day public comment period and requiring agencies to consider the comments and report on how they were used to revise the draft or were rejected and for what reasons. Practical advice was also offered on how these techniques could be used in Vietnam at the provincial level. In addition, USAID STAR Plus staff distributed a questionnaire to determine what interest there is at the provincial and local levels for more intensive and targeted training on public consultation. The MOJ consulted the local officials on three new draft regulations i.e. (i) decision on raising the salary for legal staff from 20-30% (ii) decision on raising the expenses for making laws and regulations (50% increase in some cases); and (iii) decree on law implementation by local officials.

Index of Law Implementation: The Ministry of Justice is required to report on the extent to which new laws and regulations are being implemented at the provincial level. Currently, they gather this information by asking each Department of Justice to submit a self-assessment. In order to reduce the possibility of self-interest yielding biased results, USAID STAR Plus is exploring the possibility of using data collected as part of the annual Provincial Competitiveness Index (but not currently reported in the PCI) to develop a new index that shows the perception among the business community of the degree to which new laws and regulations are being enforced.

Intellectual Property Rights Enforcement: The Ministry of Science and Technology's Management Training Institute (MTI) and USAID STAR Plus conducted a 3-day training program on intellectual property rights from September 12 to 14 in Do Son. The program was entitled "Intensive Training Course for Liaison Officials on IPR Enforcement." It focused on pulling together all the key officials responsible for enforcement for intensive discussions on topics identified as top concerns by the participating organizations. One of the main objectives was to enhance and strengthen cooperation among the enforcement forces using different tools available under the laws USAID helped develop under USAID STAR II. The participants were very active in sharing their enforcement experience and discussing what they can and should do to increase the effectiveness of enforcement efforts. The level of engagement by the participants was much higher than has been the case in the past, suggesting a new, very serious commitment to IPR protection.

Customs and IPR: On September 9, USAID STAR Plus met with Mr. Nguyen Duong Thai, Deputy Director General of the General Department of Vietnam Customs and other senior Customs officials to discuss their needs for training of Customs staff on Intellectual Property Rights enforcement. They requested USAID STAR assistance in organizing training on a number of issues including: (1) Information analysis skills using risk management techniques (especially analyzing information that appears on B/L and AWB); (2) Experience on the development of IPR database; (3) Implementation of regulations relating to ex-official requirements for IPR (in compliance with Article 58 of

TRIPs). Almost all of their requests fell well within the scope and capabilities of USAID STAR Plus. The U.S. Patent and Trademark Office, a long-time partner of STAR, also pledged to provide support. The Deputy Director General reiterated his strong desire to develop closer ties between his organization and the U.S. Customs and Border Protection Service.

Conference on Criminal Procedures: USAID STAR Plus participated in a conference on criminal procedure, “Reflections on two models: Inquisitorial and Accusatorial System on September 6. The program was sponsored by the Maison du Droit Vietnamo-Francaise at the Hanoi Law University. Featured experts included Rivaud Jean-Phillippe, Deputy Prosecutor General, Court of Appeal in Amiens, France, Dr. Stephen Thaman, Professor of Law at St. Louis University in Missouri and a former public defender in Oakland, California, Dr. Tran Van Dung, Professor of Criminal Law at Hanoi Law University, and Dr. Main Thanh Hieu, Deputy Director of the Department for Criminal Procedure and Criminal Law at the Hanoi Law University. The program was organized in cooperation with the Justice Partnership Program (JPP) of the European Union. USAID’s 90-page paper on the U.S. criminal procedure process which was prepared in conjunction with a broader JPP effort involving several other countries has been translated into Vietnamese and forwarded to the Supreme People’s Procuracy. That paper will be used by the SPP to develop recommendations for reforms to the judicial system. The reforms are likely to include elements of the US system, including a more adversarial process in criminal trials, greater separation between the prosecution and judges, plea bargaining, and a public defender system.

Labor Law Training: USAID STAR Plus completed negotiations to purchase the publication rights for a Vietnamese-language condensed version of the International Labor Law textbook, written by a group of American labor law professors at Cornell University, the University of Maryland, and the State University of New York at Buffalo. This Vietnamese-language text, the first of its kind, will be distributed electronically to law school faculties, law students, and interested personnel of the Vietnam Ministry of Labor Invalids and Social Affairs (MOLISA) and the Vietnam General Confederation of Labor (VGCL).

VISITING INTERNATIONAL EXPERTS

Who	When	To Do What
Brian Pierce, U.S. Attorney	October 5-8	Provide expert commentary on criminal aspects of judicial assistance at MOJ workshop.
Professor James Riedel	Mid-October	Conduct research and provide training on macroeconomic issues at the Ho Chi Minh Academy.
Mr. Harvey Herr, Monitoring and evaluation	August 23-September 9	Update Monitoring and Evaluation Plan for STAR Plus Project to ensure

expert, dTS.		compliance with USAID requirements.
Joe Wozniak and Greg Sampson, International Trade Center, Geneva	October 10-17	Conduct training on StandardsMap, TradeMap and ProductMap (analytical trade tools).
Richard Raymond. M.D. (former Under Secretary of Agriculture)	November 12-22	Provide training on food safety risk assessment techniques for pork.
Dr. Stephen Neel	November 12-22	Provide training on food safety risk assessment for beef.
Dr. David Brooks (Former USTR Director for Environment)	October 10-14	Provide TPP-related capacity building on environmental issues.
Mr. Alex Koff	October 17-21	Provide expert commentary on intellectual property rights issues associated with production and distribution of pharmaceuticals.
Dr. Christophe Bernasconi, Deputy Director General, Hague Conference	October 23-25	Vietnam is considering joining the Hague Conference on Private International Law, and to be a party to some of the Hague Conventions. The Ministry of Justice requested that USAID STAR Plus provide a technical expert and financial support for a workshop in Hanoi on October 24 to discuss international experience on joining the Hague Conference on Private International Law; and the advantages and disadvantages, benefits costs and burdens that would accrue to Vietnam from joining the Hague Conference.

UPCOMING EVENTS

Activities/Events	Date	Place	Objective
Training on StandardsMap for coffee producers and training of trainers.	October 10-12	Dak Lak	A one-day training program will be conducted using case studies to help coffee farmers, production companies and traders compare and select the most appropriate standards for

			their current capacity and status. This will be followed by a two-day, train-the-trainers program for 25 to 30 people on StandardsMap.
Training on trade remedies for officials from Cambodia, Laos and Vietnam	October 4-6	Phnom Penh	WTO experts from Geneva will familiarize officials from Cambodia, Laos and Vietnam with WTO approaches to trade remedies.
Conference to review the implementation of the Law on Judicial Assistance (civil and criminal law).	October 6-8	Vinh Phuc	Review the implementation of the Law on Judicial Assistance after three years of implementation. STAR Plus may invite a Federal prosecutor from Bangkok to participate.
StandardsMap training for relevant state agencies and members of the business community in HCMC in cooperation with STAMEQ.	October 13-14	HCMC	Provide officials and businesses with tools to compare and select the most appropriate standards for their current capacity and status.
Training on TradeMap and InvestmentMap. The training will have a special focus on Malaysia, Taiwan and Vietnam. We anticipate there will be 20 to 25 participants.	October 17-18	Hanoi	
Workshops on “Environment in Free Trade Agreements, related regulations and implementation.”	October 10-14	Hanoi HCMC	Provide TPP-related capacity building assistance to MOIT, MONRE, and invited stakeholders interested in the environment chapter of FTAs.
One-day workshop for pharmaceutical enterprises and officials who in charge of pharmaceutical management in Vietnam on "Protection of patents and trademarks for pharmaceutical products in the context of international integration".	October 18	Hanoi	This program will introduce policies and technical solutions to pharmaceutical patent and trademark issues that are applicable to developing countries. The workshop will also help Vietnamese enterprises better understand IPR concepts so that they can protect their

			rights and respect other pharmaceutical brand names, especially foreign names, to protect their trademarks and patents.
Training on international economic integration for approximately 50 provincial officials from Northern provinces at the Ho Chi Minh Academy for Political and Administrative Development.	October 24-26	Hanoi	Provide skills and knowledge needed by provincial officials. This will be the first training provided for local officials through the Ho Chi Minh Academy. Previous efforts have focused on the HCMA faculty.
Workshops on how to conduct food safety risk assessments for pork and beef with emphasis on imports.	November 12-22	Hanoi HCMC	Provide Vietnamese officials with training in conducting a science-based risk assessment. Goal is to improve regulations related to the Food Safety Law and similar legislation so that artificial barriers to trade are not erected and public health is protected.